

## **REMARKS**

This is in response to the Office Action mailed on November 5, 2008 for the above-referenced application. Applicant has amended Claims 28, 31, 34, 35 and 38. Thus, Claims 28 to 38 remain pending for examination. Support for Applicant's amendments can be found at paragraph [1017] of the specification as filed. Applicant respectfully requests reconsideration of the pending claims in view of the remarks and amendments contained herein.

### **Terminal Disclaimer**

The Examiner stated that a terminal disclaimer was required in view of U.S. Patent No. 6,292,662. However, Applicant argues that no such terminal disclaimer is necessary in view of the amendments to the claims presented herewith. Applicant has amended all the independent claims to recite that vocoded data is converted into pulse code modulated (PCM) formatted data which is routed through a wire-based telephone system to a second subscriber unit if the second subscriber unit is part of a second wireless telephone system, and wherein the PCM formatted data is converted back into the vocoded data packets by the second wireless telephone system. This feature of pulse code modulating the vocoded data packets for transmission across a wire-based telephone system and then converting the PCM information back into the vocoded data packets is not recited nor obvious from the claims of U.S. Patent No. 6,292,662. Accordingly, Applicant respectfully requests withdrawal of this rejection.

### ***Discussion of Rejection of Claim 38 under 35 USC § 101***

The Office Action rejected Claim 38, stating that "claim 38 should state that the instructions/programs are stored/embodied on a computer readable medium." As such, Applicant has amended Claim 38 to recite: "A memory storing a computer program that, when executed, causes a computer to perform the acts of:" Accordingly, Applicant respectfully requests withdrawal of this rejection of Claim 38 under 35 USC § 101.

***Discussion of Rejection under 35 USC § 112***

The Office Action rejected Claim 38, stating that “no ‘computer readable medium’ phraseology is found in the specification to support the statutory wording required for a program-based claim.” Applicant respectfully disagrees, however has amended the preamble of Claim 38 to recite “A memory” which finds clear support in the specification. For example, “[i]n the preferred embodiments of the invention, a selector resource is comprised of a microprocessor configured via the use of a set of software instructions stored in a hard-disk or integrated circuit memory or both.” Specification, paragraph [1023].

Accordingly, Applicant respectfully requests withdrawal of this rejection of Claim 38 under 35 USC § 112.

***Discussion of Rejection under 35 USC § 103***

**Independent Claim 28**

The Office Action rejected Claims 28-38 as unpatentable over Kotzin (US 5,442,681) in view of Roach (US 5,845,211) and Widmark (US 5,504,804) or Munk (WO 93/00778). Applicant respectfully disagrees. Applicant has amended Claim 28 to further distinguish the claim over the cited art.

M.P.E.P. § 2143.03 recites that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

The cited art does not disclose the newly added features into amended Claim 28. For example, Kotzin, Roach, Widmark, and Munk do not disclose a system that determines whether a subscriber is connected through a digital packet based network, and if not, then converts the vocoder data packets into a pulse code modulated (PCM) format. That pulse code modulated format is then sent across the wire-based telephone system to the second subscriber wherein the vocoder data in the pulse code modulated format is converted back into the vocoder data packets.

This differs from prior systems which devocoded the vocoder packets and then sent a pulse code modulated format of the devocoded data to a subscriber. The devocoded data

in the PCM format was then re-vocoded and sent to the subscriber's handset. This resulted in double vocoding of the data.

This contrasts with the present claims which recite pulse code modulating the vocoder data as a means for transmitting the vocoder packets along a non-digital packet data network. The pulse code modulated vocoder packets that arrive at the destination system can be recovered in the same form as they were transmitted. The destination system can then convert send them directly to a compatible handset, or convert them to a format that is compatible with the destination handset. These features of Claim 28 are not taught by Kotzin, Roach, Widmark, or Munk alone or in combination. Accordingly, Applicant respectfully requests withdrawal of this rejection.

**Independent Claims 31, 35, and 38**

Independent Claims 31, 35 and 38 have been amended similarly to Claim 28 and are therefore not obvious in view of Kotzin, Roach, Widmark, and Munk for all the reasons discussed above. Accordingly, Applicant respectfully requests withdrawal of this rejection.

**Dependent Claims**

Applicant does not necessarily agree with the characterization and assessments of the dependent claims made by the Examiner, and Applicant respectfully believes that each claim is patentable on its own merits. The dependent claims are dependent either directly or indirectly on one of the above-discussed independent claims. Applicant respectfully submits that pursuant to 35 U.S.C. § 112, ¶4, the dependent claims incorporate by reference all the limitations of the claim to which they refer and include their own patentable features, and are therefore in condition for allowance. Therefore, Applicant respectfully requests the withdrawal of all claim rejections and prompt allowance of the claims.

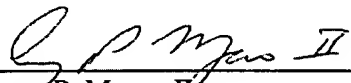
March 4, 2009

### CONCLUSION

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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